

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Unbundled Access to Network Elements)	CC Docket No. 04-313
)	
Review of the Section 251 Unbundling)	CC Docket No. 01-338
Obligations of the Incumbent Local)	
Exchange Carriers)	

REPLY COMMENTS

The Association for Local Telecommunications Services, Alpheus Communications, LP, Cbeyond Communications, LLC, Conversent Communications, LLC, GlobalCom, Inc., Mpower Communications Corp., New Edge Networks, Inc., OneEighty Communications, Inc., and TDS Metrocom, LLC. (collectively “Joint Commenters”), submit these reply comments in response to the Oppositions filed by Verizon, BellSouth Corporation (“BellSouth”) and SBC Communications Inc. (“SBC”) to the Petition for Emergency Clarification and/or Errata of the *UNE Interim Order*¹ filed by Joint Commenters on August 27, 2004 in the above captioned proceeding.²

I. The Commission Should Clarify That Change of Law Provisions May Not Be Implemented Until At Least Six Months After Publication of the *Interim UNE Order* in the Federal Register or the Effective Date of New UNE Rules

Joint Commenters are pleased that BellSouth and SBC agree that the Commission’s intent in the *Interim UNE Order* was to maintain the *status quo* as reflected in interconnection agreements as of June 15, 2004 for six months from publication of the Order in the Federal Register and that ILECs

¹ *In the Matter of Unbundled Access to Network Elements, Review of the Section 251 Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 04-313 and 01-338, Order and Notice of Proposed Rule Making (“*Interim UNE Order*”) (rel. August 20, 2004). The filing entities reserve the right to supplement this request or otherwise seek reconsideration of any aspect of the *Interim UNE Order*.

² Opposition of BellSouth Corporation and SBC Communications Inc., dated September 7, 2004 (the “BellSouth Opposition”); and Opposition of Verizon, dated September 7, 2004 (the “Verizon Opposition).

may not at a minimum implement any changes in UNE provisioning until six months after publication of the *Interim UNE Order* in the Federal Register.³ This validates Joint Commenters' request that the Commission provide the clarification on this issue requested in the petition.

BellSouth and Verizon insist, however, that they should be permitted to immediately invoke change of law provisions in interconnection agreements so that, in their view, presumably, they could establish new agreements immediately and implement any changes provided in those agreements as soon as six months from the date of Federal Register publication of the *Interim UNE Order*. The Commission should take this opportunity to clarify that it would serve little point to permit ILECs to implement change of law provisions now when the second six month transition period described in the *Interim UNE Order* is merely a proposal.⁴ Assuming some UNEs were to be removed in the new permanent UNE rules, it would make little sense and be wasteful of ILEC, CLEC, and regulator resources to implement any changes applicable after the first six months since the Commission has not yet specified what rules will govern after the first six months. Accordingly, the Commission should additionally clarify that ILECs may not implement change of law provisions until six months after publication of the *Interim UNE Order* in the Federal Register or the effective date of new UNE rules, whichever occurs first..

II. The Commission Should Clarify That Interim UNE Rates May Be Reduced As Well As Increased As Directed by a State Commission

As noted in the Petition, the Commission should clarify paragraphs 1, 21, and 29 of the *Interim UNE Order* to provide that that any rate reductions ordered by state Commission decisions that became effective on or before June 15, 2004 are not subject to any limitations imposed by the transition scheme adopted in the *Interim UNE Order* and that any new state decisions ordering rate

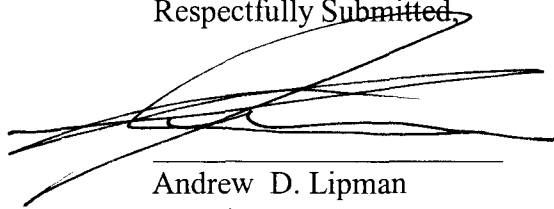
3 BellSouth Opposition at 4.

reductions may be implemented during the initial six-month transition period. Joint Commenters submit that the Commission's intent was to maintain the *status quo*, except when state commissions specifically decided to change the rates for network elements after completing a proceeding. The Commission failed to provide an explanation as to why state decisions raising UNE prices may be implemented but not rate reductions. Notwithstanding the winded oppositions of Verizon and Bellsouth arguing that UNE rules have been vacated by the D.C. circuit,⁵ it is evident that if competitors are subject to rate increases they should also stand to benefit from rate reductions approved by state commissions.

III. CONCLUSION

For the foregoing reasons, Joint Commenters submit that the Commission should immediately issue a Clarification Order or Errata as described in the Petition.

Respectfully Submitted,



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⁴ *Interim UNE Order*

⁵ Verizon Opposition at 4, BellSouth Opposition at 7.

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